

Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

THOSE CERTAIN UNDERWRITERS AT  
LLOYD'S OF LONDON and LONDON  
MARKET INSURERS, subscribing to the  
Policy with the Unique Market Reference  
B1093C080906,

Plaintiffs,

v.

EUGENE HORTON, LLC, a Washington  
limited liability corporation; EUGENE  
HORTON, an individual; and OAMPS  
SPECIAL RISKS, LTD., a Lloyd's broker,

Defendants.

NO. 2:11-cv-02111-RSM

DECLARATION OF DAVID W.  
HOWENSTINE RE: UNDERWRITERS'  
OPPOSITION TO HORTON'S RULE  
12(B)(1) MOTION TO DISMISS

I, David W. Howenstine, declare as follows:

1. I am an attorney at Mills Meyers Swartling and represent Plaintiffs Those  
Certain Underwriters at Lloyd's of London and London Market Insurers in this matter. I have  
personal knowledge of the facts stated herein, and I am otherwise competent to testify.

DECLARATION OF DAVID W. HOWENSTINE RE:  
UNDERWRITERS' OPPOSITION TO HORTON'S RULE 12(B)(1)  
MOTION TO DISMISS  
(No. 2:11-cv-02111-RSM) - 1

LAW OFFICES OF  
**MILLS MEYERS SWARTLING**  
1000 SECOND AVENUE, 30TH FLOOR  
SEATTLE, WASHINGTON 98104-1064  
TELEPHONE (206) 382-1000  
FACSIMILE (206) 386-7343

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

By: /s/David Howenstine  
David W. Howenstine  
WSBA No. 41216

LAW OFFICES OF  
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**CERTIFICATE OF SERVICE**

I certify that I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to:

Deborah A. Severson, dxs@leesmart.com, lkb@leesmart.com

Joel E. Wright, jw@leesmart.com, jbm@leesmart.com, sm@leesmart.com

David B Jensen, djensen@mhlseattle.com, kfergin@mhlseattle.com

DATED: February 21, 2012.

  
Teresa A. Caceres, Legal Assistant

DECLARATION OF DAVID W. HOWENSTINE RE:  
UNDERWRITERS' OPPOSITION TO HORTON'S RULE 12(B)(1)  
MOTION TO DISMISS  
(No. 2:11-cv-02111-RSM) - 3

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## **EXHIBIT A**

# JAMPS

Gene Horton  
The Sea Mountain Group  
Lynwood  
WA 98036  
USA

## COVER NOTE

No: C091718  
Date: 21/01/2009

In accordance with your instructions we have effected (re)insurance with (re)insurers based on the information supplied. Please examine this document carefully and if either the cover does not comply with your requirements or the security is unacceptable, please notify us immediately.

### Important

We would remind you of your legal duty to disclose all material facts and information accurately and completely at inception and during the period of cover. If the information provided to us is materially inaccurate, or if you consider there to be further material information we have not received which should be presented to your Underwriters you must notify us immediately. Failure to comply could lead to avoidance of cover.

### Contracts (Rights of Third Parties) Act 1999

Your instructions to us to effect (re)insurance on your behalf constitutes a contract between you and us. This contract does not, and is not intended to, confer or create any right enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to the contract; and the parties to this contract reserve the right to amend or rescind the contract without giving notice to, or requiring the consent of, any third party.

### Warranties

If any warranties are shown on this Cover Note which are applicable to this (re)insurance contract please ensure that you understand them and are able to follow their requirements exactly. If not, please advise us immediately, as a breach of warranty will usually enable (re)insurer(s) to terminate the (re)insurance contract from the date of that breach. This is the position regardless of whether there is any connection between the warranty breached and the loss, which leads to that breach becoming evident.

### Premium Payment Warranty

Please note that where this document contains a Premium Payment Warranty, failure to comply with the terms and conditions and details therein will result in cancellation of the coverage herein provided.

Cover Note Policy No : C091718  
Page : 2 of 2

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It is understood and agreed by all underwriters hereon that with effect from 25th September 2009 the following changes are made to the policy:-

Valued increased to USD 18,000,000 - pro rata additional premium hereon = USD 3,301.64

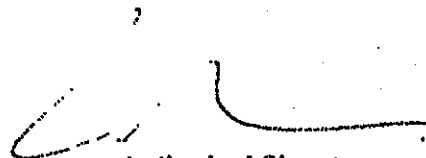
Assured name: Northcoast Yachts, Inc and Stephen Yadfish

Mortgagee: Caterpillar Financial Services Corp, 2120 West End Ave, Nashville, TN 37203-001


The notice of cancellation period is increased to 30 days

All other terms and conditions remain unchanged.

**OAMPS SPECIAL RISKS LIMITED**



Authorised Signatory



Authorised Signatory

**Risk Details**

**UMR:** B1093C091718  
**Attaching to** B1093C080906  
**Lineslip**  
**Contract**  
**Number:**  
**Type:** Hull & Machinery

**Assured:** Stephen Yadvish  
 1141 Fairview Avenue North  
 Seattle  
 WA 98109  
 USA

**Period:** From 20<sup>th</sup> January 2009 to 19<sup>th</sup> January 2010, Local Standard  
 Time, both days inclusive.

**Vessel:** 2009 125' Northcoast M/Y.

**Interest:**

- A) Hull and Materials, Engines and Machinery and everything connected therewith, nothing excluded.
- B) Increased Value of Hull and Machinery etc. including Excess Liabilities.
- C) Protection and Indemnity Risks.
- D) Medical Payments.
- E) Uninsured Boater Coverage.

**Sum Insured:**

- A) Valued USD 12,000,000 including Tenders, Dinghies, Outboards, Windsurfers, Personal Watercraft and Diving Gear.
- B) USD 4,000,000
- C) USD 10,000,000 combined single limit for property damage and personal injury each and every accident.
- D) USD 100,000 each and every person each and every accident but limited to USD 500,000 each and every accident.
- E) USD 2,000,000 each and every accident.

**Trading:** Inland and Coastal waters of Washington and British Columbia but not North of 51 degrees North and not more than 25 miles from Cape Flattery.

**Order Hereon:** 100%

**Conditions:** American Yacht Form R12 (893CW00059) with Section 'A' - Full Insurance Exclusions 2, 3, 4, 5 and 7 deleted and the words "or piracy" in the Paramount Exclusions Clause are deleted but this insurance excludes loss or expenditure incurred in remedying a fault in design or construction or any cost or expense incurred by reason of betterment or

alteration in design or construction.

#### Section 'B' - Protection and Indemnity Insurance.

Noted and agreed that in cases where the liability of the Assured shall be contested in any suit or action with the consent in writing of the Assurers, the Assurers will pay such ensuing costs as the Assured may incur as a result of such suit or action in addition to the applicable limits of insurance coverage stated in the relevant Section(s) of this insurance.

This insurance does not cover any liability cost or expense arising in respect of fines penalties punitive or exemplary damages, howsoever described but agreed to pay any fine or penalty assessed by any government or agency thereof for damage to marine environment or pollution to marine environment subject to a maximum limit of 5 per cent of the sum insured in respect of Interest C.

Section "D" - Medical Payments Insurance extended to include repatriation expenses and to include captain and crew while in the employment of the Assured and signed onto the Yacht, ashore and afloat. Exclusion 3 deleted. The term yacht is deemed to include the vessel's tenders, dinghies, personal watercraft, windsurfers and any such similar items including whilst being towed by any such items. Bodily Injury caused by accident also means bodily harm, sickness or disease, including required care, loss of services and death resulting therefrom. Coverage in respect of captain and crew is 24 hours per day during the entire period of this insurance.

Institute Additional Perils Clauses - Hulls (1/10/83) Cl.301.

Agreed cover failure in the working mechanism of machinery or motor generators or other electrical machinery and their connections which causes the same to cease functioning or to function improperly.

Agreed to cover any additional tenders, dinghies, outboards, windsurfers and personal watercraft which the Assured acquires ownership of during the policy period subject to the maximum designed speed not exceeding 35 knots and subject to payment of any additional premium required. Prior to notification to Underwriters, the



maximum liability hereunder shall be the cost to the Assured or USD 50,000, whichever is less.

Agreed to cover loss of or damage to equipment and apparatus not owned by the Assured but installed for use on the Vessel and for which the Assured has assumed contractual liability, whether such equipment or apparatus be in the nature of aids to navigation or communication or otherwise and where such loss or damage is caused by a peril insured under this insurance, subject in all other respects to its terms, conditions and exclusions. In no event shall the liability of the Underwriters exceed the lesser of the contractual liability of the Assured for loss of or damage to such equipment or apparatus or its replacement value. All such equipment and apparatus shall be included in the insured value of the Vessel.

American Hull Insurance Syndicate Deliberate Damage Clause (Pollution Hazard) 1.8.73 (A) B. Reg. No. 509207.

Agreed provide cover for the act of any Governmental Authority or State Authority done for the purpose of saving the Yacht.

Agreed pay the reasonable cost of inspecting the bottom of the vessel after grounding, even if no damage be found without application of any deductible.

American Institute Increased Value and Excess Liabilities Clauses (November 3, 1977) 129-P Cl.A175 with Coverage (1) extended to Include the settlement of a claim for Total Loss under the American Yacht Form R12

Uninsured Boater Wording with the term yacht deemed to include the vessel's tenders, dinghies, personal watercraft, windsurfers and any such similar items including whilst being towed by any such items.

Agreed to provide additional protection in the event there is an emergency situation where the Assured and the Insured Vessel are not in imminent danger. Agreed to reimburse reasonable costs incurred, not to exceed a total of USD 50,000 resulting from the following services to the Insured Vessel if help is not available and commercial assistance must be obtained:

- a. towing to the nearest place where necessary repairs can be made;
- b. delivery of gas, oil, parts or loaned battery (excluding the cost of these items themselves) or emergency labour, while away from safe harbour.

The policy deductible does not apply to this coverage.

Personal Effects Clause extended to include personal effects belonging to the beneficial owner of the Assured, his family and charterers/ guests subject to any single article valued at USD 10,000 or more being specifically declared and valued and extended to include crews personal effects subject to a maximum total value insured of USD 10,000 per capita and any single article valued at USD 5,000 or more being specifically declared and valued. Cover under this clause shall be in respect of clothing, personal effects, credit cards, jewellery, fishing gear and sports equipment.

If requested by the Owner and only if to the benefit of the permanent crew (as agreed by Underwriters), it is noted and agreed that in the event of a constructive or actual total loss of the vessel the crew have cover for personal effects up to a sum insured of USD 10,000 per person subject to a single article limit of USD 5,000. This amount is over and above the total sum insured for the yacht.

Noted that mopeds are only covered whilst on board the vessel and/or her tenders including whilst loading and unloading or whilst parked alongside the vessel whilst berthed.

Institute Radioactive Contamination, Chemical, Biological, Bio-Chemical and Electromagnetic Weapons Exclusion Clause (10.11.03) Cl 370.

Institute Cyber Attack Exclusion Clause (10.11.03) Cl. 380.

Radioactive Contamination Exclusion Clause (U.S.A. Endorsement).

Agreed pay for loss or damage to the vessel when caused by the breach of any warranty contained in this policy by a paid captain and/or paid crew members or a charterer provided the breach of such warranty does not constitute a violation of the laws of the country that has jurisdiction over the yacht at the time the breach occurred or such breach is not committed with the consent, approval or knowledge of the assured.

Hull War, Strikes, Terrorism and Related Perils Notice of  
Cancellation Administration Clause (JW2005/001B).

**Express**                      Warranted no towing of tenders.  
**Warranties:**              Warranted private pleasure only.  
                                    Warranted no cover for War.  
**Subjectivities:**        Subject to satisfactory proposal form and crew details  
                                    within seven days of attachment.  
**Law &**  
**Jurisdiction**              This insurance is shall be governed by and construed in  
                                    accordance with the law of the state of New York and each  
                                    party agrees to submit to the exclusive Jurisdiction of the  
                                    courts of USA  
                                    Agreed practice of US average adjustors to apply.  
                                    Institute Service of Suit Clause (U.S.A.) CL 355 dated  
                                    1/11/92.

Deductible: Underwriters hereon only to be liable for the excess of:-

Hull and Machinery etc - USD160,000 ) each and every  
 ) claim except Total  
 ) Loss which  
 ) payable in full.

Tenders, Dinghies, - USD 250 ) all items in the  
 Outboards, Windsurfers, ) aggregate each  
 Personal Watercraft, ) separate accident  
 Diving Gear, Mopeds etc & ) or occurrence  
 Personal Effects. Or 1% of ) except total loss  
 Sum Insured of Tenders whichever ) of an individual  
 the greater. ) item which  
 ) payable in full.

Electronic, - USD 5,000 ) all items in the  
 Communications and ) aggregate each  
 Navigation Equipment ) separate accident  
 ) or occurrence  
 ) except total loss  
 ) of an individual  
 ) item which  
 ) payable in full.

Protection and - USD 500 ) each section each  
 Indemnity Risks, Running ) and every claim.  
 Down Clause and )  
 Uninsured Boater Coverage )

Medical Payments - USD 100 ) each and every  
 ) claim

Where there is an accident or occurrence which involves more than one deductible then the largest single deductible shall apply.

Premium: As per debit note

Plus 5% No Claims Continuity Bonus if renewed in 2009 with existing Underwriters.

Payment Premium Payment Warranty

Terms: LSW 3000 - 60 days

Taxes Payable None.

by Assured  
 and

Administered

by

**Underwriters:**

**Recording,  
Transmitting  
& Storing  
Information:**

Where Oamps Special Risks Limited maintains risk and claim data, information and documents, they may hold such data, information and documents electronically.

**Insurer  
Contract  
Documentation:**

This contract document details the contract terms entered into by the (re)insurer(s) and constitutes the contract document.

***Information***

**Information**

Clean Loss Record  
3 full time crew.  
Engines - Caterpillar.  
MDS - 22 knots.  
Flag - US.  
Moored - Lake Union, WA.

***Security  
Details:***

**INSURER'S  
LIABILITY:**

LMA 3333 (Re)Insurers Liability Clause  
(Re)insurer's liability several not joint:

The liability of a (re)insurer under this contract is several and not joint with other (re)insurers party to this contract. A (re)insurer is liable only for the proportion of liability it has underwritten. A (re)insurer is not jointly liable for the proportion of liability underwritten by any other (re)insurer. Nor is a (re)insurer otherwise responsible for any liability of any other (re)insurer that may underwrite this contract.

The proportion of liability under this contract underwritten by a (re)insurer (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of the syndicate taken together) is shown next to its stamp. This is subject always to the provision concerning "signing" below.

In the case of a Lloyd's syndicate, each member of the syndicate (rather than the syndicate itself) is a (re)insurer. Each member has underwritten a proportion of the total shown for the syndicate (that

total itself being the total of the proportions underwritten by all the members of the syndicate taken together). The liability of each member of the syndicate is several and not joint with other members. A member is liable only for that member's proportion. A member is not jointly liable for any other member's proportion. Nor is any member otherwise responsible for any liability of any other (re)insurer that may underwrite this contract. The business address of each member is Lloyd's, One Lime Street, London EC3M 7HA. The identity of each member of a Lloyd's syndicate and their respective proportion may be obtained by writing to Market Services, Lloyd's, at the above address.

#### **Proportion of liability**

Unless there is "signing" (see below), the proportion of liability under this contract underwritten by each (re)insurer (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of the syndicate taken together) is shown next to its stamp and is referred to as its "written line".

Where this contract permits, written lines, or certain written lines, may be adjusted ("signed"). In that case a schedule is to be appended to this contract to show the definitive proportion of liability under this contract underwritten by each (re)insurer (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of the syndicate taken together). A definitive proportion (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of a Lloyd's syndicate taken together) is referred to as a "signed line". The signed lines shown in the schedule will prevail over the written lines unless a proven error in calculation has occurred.

Although reference is made at various points in this clause to "this contract" in the singular, where the circumstances so require this should be read as a reference to contracts in the plural.

<b>Order Hereon:</b>	100% of 100%
<b>Basis of</b>	Percentage of Whole.
<b>Written Lines:</b>	
<b>Signing</b>	In the event that the written lines hereon exceed 100% of the
<b>Provisions:</b>	order, any lines written "to stand" will be allocated in full

and all other lines will be signed down in equal proportions so that the aggregate signed lines are equal to 100% of the order without further agreement of any of the insurers.

However:

- a) in the event that the placement of the order is not completed by the commencement date of the period of insurance then all lines written by that date will be signed in full.
- b) the insured may elect for the disproportionate signing of insurer's lines, without further specific agreement of insurers, providing that any such variation is made prior to the commencement date of the period of insurance, and that lines written "to stand" may not be varied without the documented agreement of those insurers.
- c) the signed lines resulting from the application of the above provisions can be varied, before or after the commencement date of the period of insurance by the documented agreement of the insured and all insurers whose lines are to be varied. The variation to the contracts will take effect only when all such insurers have agreed, with the resulting variation in signed lines commencing from the date set out in that agreement.

Line

Conditions: None unless (Re)Insurers indicate otherwise here.

#### WRITTEN LINES(S)

#### *Subscription Agreement*

Slip Leader: TRV 5000  
 Basis Of General Underwriters Agreement October 2001 plus Marine Hull  
 Agreement To Schedule May 2002.  
 Contract Slip Leader's agreements to any schedules, clauses or attachments  
 Changes: forming part of this contract, are deemed agreed by all insurers,  
 including any amendments thereto.  
 When details of agreed endorsements are required to be provided to  
 following underwriters, e-mail may be used by Oamps Special Risks  
 Ltd.

Other RSA  
 Agreement MKL 3000  
 Parties For  
 Contract  
 Changes, For  
 Part 2 Gua  
 Changes Only:  
 Agreement None  
 Parties For



Contract  
Changes, For  
Their  
Proportion  
Only:

Basis Of  
Claims  
Agreement:

Claims to be managed in accordance with the IUA claims agreement practices and the Lloyd's 2006 Claims Scheme, including current amendments and overridden as follows:

Underwriters agree waive the Xchanging Claims Services settlement delay procedures in respect of first advice and settlement.

Agree allow claims collections and refunds hereunder without production of original or designated copy policies if required.

Claims  
Agreement  
Parties:

Advices and Settlements as follows (where applicable):

By first Lloyd's Underwriter subscribing to this contract plus Xchanging Claims Services on behalf of all following Lloyd's Underwriters;

By first XIS Company Underwriter with an ex-ILU underwriting code subscribing to this contract on behalf of all following XIS Company Underwriters with an ex-ILU underwriting code;

By each XIS Company Underwriter with an ex-LIRMA underwriting code, and each non-bureaux Underwriter subscribing to this contract, separately.

Claims  
Administration:

In respect of all Lloyd's syndicates and London Company Markets (IUA) OAMPS Special Risks Ltd and insurers agree that any claims hereunder (including any claims related to costs/fees) will be notified and administered via ECF with any payments processed via CLASS, unless both parties agree to do otherwise.

All non-bureau and overseas markets to settle by telegraphic transfer.

Rules And  
Extent Of Any  
Other  
Delegated  
Claims  
Authority:

Not Applicable.

Expert(S) Fees  
Collection:

OAMPS Special Risks Ltd to collect fees.

Settlement  
Due Date:

20/03/2009

Bureaux  
Arrangements:

Xchanging Ins-Sure Services to accept premium as presented that falls within the London Standard Terms of Trade, without Underwriters prior agreement.



Providing the closing for the correct premium amount is submitted to XIS on or before the settlement due date or next working day then the premium payment requirement is deemed met and any subsequent re-submissions shall not be considered late.

Where the Settlement Due Date (SDD) or any Premium Payment Warranty (PPW) or Premium Payment Condition (PPC) due date falls on a weekend or public holiday, presentation to Xchanging Ins-Sure Services on the next working day will be deemed to be in compliance with the SDD, PPW or PPC.

Agreed to accept currency rate of exchange adjustments as presented to Xchanging Ins-Sure Services bearing evidence of assured payment/settlement.

Agree sign premium payments on the basis that each interest and vessel is and shall be deemed to be a separate insurance, if necessary.

~~Agreed that claims and returns to be collected on photocopy contracts (bearing evidence of signing numbers and dates) without presentation of the policy document.~~

Re(Insurers) agree that OAMPS Special Risks Limited may pay de-linked premiums for this contract at different times.

Underwriters authorise Xchanging Ins-Sure Services to issue a marine policy against a delinked premium prior to settlement of that premium.

**Non-Bureaux Arrangements:** If the Settlement Due Date falls on a Saturday, a Sunday or a Bank Holiday, it is agreed that the Settlement Due Date shall be changed to the first following working day

**Fiscal And Regulatory**

**Tax Payable By Insurers:** None as at Inception Date. Subject to automatic amendment during the policy period, without underwriters' prior approval, effective from the date of any legislative change affecting the taxation applicable to this contract.

**Country Of Origin:** USA  
**Overseas Broker:** Sea Mountain Group  
Lynwood  
WA  
USA

**Surplus Lines**      Sea Mountain Group  
**Broker:**            Lynwood  
                             WA  
                             USA  
**State Of Filing:**   WA  
**Licence**              SEAMOIB957KW  
**information:**  
**US**                    Regulated.  
**Classification:**  
**Allocation Of**      O  
**Premium To**  
**Coding:**  
**FSA Client**          Large Risk  
**Classification:**  
**Is Business**        No.  
**Subject To**  
**Distance**  
**Marketing**  
**Directive**  
**Rules?:**  
**Broker**  
**Remuneration**  
**& Deductions:**  
**Fee Payable By**    No  
**Client?:**  
**Other**                None.  
**Deductions**  
**From**  
**Premium:**

**Schedule of Clauses:**

Institute Yacht Clauses (1.11.85) CL.328

Institute War and Strikes Clauses - Yachts (1.11.85) CL.329.

Navigation Limitations for Hull War, Strikes, Terrorism and Related Perils  
Endorsement (JWLA009 7/01/09 or as may be subsequently amended by  
underwriters).

Institute Radioactive Contamination, Chemical, Biological, Bio-Chemical and  
Electromagnetic Weapons Exclusion Clause CL.370 (10.11.03).

Institute time Clauses - Hulls Disbursements and Increased Value ( Total Loss only,  
including Excess Liabilities) ( 1/11/95) CL 290.

Institute Cyber Attack Exclusion Clause CL.380 (10.11.03).

Institute Yacht Clauses Machinery Damage Extension Clause 1/11/85 CL.332

Institute Time Clauses - Hulls, Leased Equipment Clause (1/11/95) CL.362.

Institute Yacht Clauses Personal Effects Clause (1/11/85) CL.331

Hull War, Strikes, Terrorism and Related Perils Notice of  
Cancellation Administration Clause (JW2005/001B).

Frost Damage Clause

Clothing Clause

Payment of Premium and Cancelling Clause (Brokers Cancellation Clause).

Medical Expense Clause .

Premium Payment Clause LSW 3000

( Re) Insurer's Liability several not joint Clause LMA 3333

## INSTITUTE YACHT CLAUSES

This insurance is subject to English law and practice

### 1. VESSEL

Vessel means the hull, machinery, boat(s), gear and equipment, such as would normally be sold with her if she changed hands.

### 2. IN COMMISSION AND LAID UP

2.1 The vessel is covered subject to the provisions of this insurance

2.1.1 while in commission at sea or on inland waters or in port, docks, marinas, on ways, gridirons, pontoons, or on the hard or mud or at place of storage ashore, including lifting or hauling out and launching, with leave to sail or navigate with or without pilots, to go on trial trips and to assist and to tow vessels or craft in distress, or as is customary, but it is warranted that the vessel shall not be towed, except as is customary or when in need of assistance, or undertake towage or salvage services under a contract previously arranged by Owners, Masters, Managers or Charterers

2.1.2 while laid up out of commission as provided for in Clause 4 below, including lifting or hauling out and launching, while being moved in shipyard or marina, dismantling, fitting out, overhauling, normal maintenance or while under survey, (also to include docking and undocking and periods laid up afloat incidental to laying up or fitting out and with leave to shift in tow or otherwise to or from her lay-up berth but not outside the limits of the port or place in which the vessel is laid up) but excluding, unless notice be given to the Underwriters and any additional premium required by them agreed, any period for which the vessel is used as a houseboat or is under major repair or undergoing alteration.

2.2 Notwithstanding Clause 2.1 above the gear and equipment, including outboard motors, are covered subject to the provisions of this insurance while in place of storage or repair ashore.

### 3. NAVIGATING AND CHARTER HIRE WARRANTIES

3.1 Warranted not navigating outside the limits stated in the Schedule to the policy or, provided previous notice be given to the Underwriters, held covered on terms to be agreed.

3.2 Warranted to be used solely for private pleasure purposes and not for hire

charter or reward, unless specially agreed by the Underwriters.

#### 4. LAID UP WARRANTY

Warranted laid up out of commission as stated in the Schedule to the policy, or held covered on terms to be agreed provided previous notice be given to the Underwriters.

#### 5. SPEED WARRANTY

5.1 Warranted that the maximum designed speed of the vessel, or the parent vessel in the case of a vessel with boat(s), does not exceed 17 knots.

5.2 Where the Underwriters have agreed to delete this warranty, the conditions of the Speedboat Clause 19 below shall also apply.

#### 6. CONTINUATION

Should the vessel at the expiration of this insurance be at sea or in distress or at a port or place of refuge or of call, she shall, provided prompt notice be given to the Underwriters, be held covered at a premium to be agreed until anchored or moored at her next port of call in good safety.

#### 7. ASSIGNMENT

No assignment of or interest in this insurance or in any moneys which may be or become payable thereunder is to be binding on or recognised by the Underwriters unless a dated notice of such assignment or interest signed by the Assured, and by the assignor in the case of subsequent assignment, is endorsed on the policy and the policy with such endorsement is produced before payment of any claim or return of premium thereunder.

#### 8. CHANGE OF OWNERSHIP

This Clause 8 shall prevail notwithstanding any provision whether written typed or printed in this insurance inconsistent herewith.

8.1 Should the vessel be sold or transferred to new ownership, or, where the vessel is owned by a company, should there be a change in the controlling interest(s) of the company, then, unless the Underwriters agree in writing to continue the insurance, this insurance shall become cancelled from the time of such sale transfer or change and a pro rata daily net return of premium be made calculated on the premium charged for the in commission and/or laid up period.

8.2 If however the vessel shall have left her moorings or be at sea at the time of sale or transfer such cancellation shall if required by the Assured be suspended until arrival at port or place of destination.

## 9. PERILS

Subject always to the exclusions in this insurance

9.1 this insurance covers loss of or damage to the subject-matter insured caused by

9.1.1 perils of the seas rivers lakes or other navigable waters

9.1.2 fire

9.1.3 jettison

9.1.4 piracy

9.1.5 contact with dock or harbour equipment or installation, land conveyance, aircraft or similar objects or objects falling therefrom

9.1.6 earthquake volcanic eruption or lightning

9.2 and, provided such loss or damage has not resulted from want of due diligence by the Assured Owners or Managers, this insurance covers

9.2.1 loss of or damage to the subject-matter insured caused by

9.2.1.1 accidents in loading, discharging or moving stores, gear, equipment, machinery or fuel

9.2.1.2 explosions

9.2.1.3 malicious acts

9.2.1.4 theft of the entire vessel or her boat(s), or outboard motor(s) provided it is securely locked to the vessel or her boat(s) by an anti-theft device in addition to its normal method of attachment, or, following upon forcible entry into the vessel or place of storage or repair, theft of machinery including outboard motor(s), gear or equipment

9.2.2 loss of or damage to the subject-matter insured, excepting motor and connections (but not strut shaft or propeller) electrical equipment and batteries and connections, caused by

9.2.2.1 latent defects in hull or machinery, breakage of shafts or bursting of boilers (excluding the cost and expense of replacing or repairing the defective part broken shaft or burst boiler)

9.2.2.2 the negligence of any person whatsoever, but excluding the cost of making good any defect resulting from either

negligence or breach of contract in respect of any repair or alteration work carried out for the account of the Assured and/or the Owners or in respect of the maintenance of the vessel,

- 9.3 this insurance covers the expense of sighting the bottom after a stranding, if reasonably incurred specially for that purpose, even if no damage be found.

## 10. EXCLUSIONS

No claim shall be allowed in respect of any

- 10.1 outboard motor dropping off or falling overboard
- 10.2 ship's boat having a maximum designed speed exceeding 17 knots, unless such boat is specially covered herein and subject also to the conditions of the Speedboat Clause 19 below, or is on the parent vessel or laid up ashore
- 10.3 ship's boat not permanently marked with the name of the parent vessel
- 10.4 sails and protective covers split by the wind or blown away while set, unless in consequence of damage to the spars to which sails are bent, or occasioned by the vessel being stranded or in collision or contact with any external substance (ice included) other than water
- 10.5 sails, masts, spars or standing and running rigging while the vessel is racing, unless the loss or damage is caused by the vessel being stranded, sunk, burnt, on fire or in collision or contact with any external substance (ice included) other than water
- 10.6 personal effects
- 10.7 consumable stores, fishing gear or moorings
- 10.8 sheathing, or repairs thereto, unless the loss or damage has been caused by the vessel being stranded, sunk, burnt, on fire or in collision or contact with any external substance (ice included) other than water
- 10.9 loss or expenditure incurred in remedying a fault in design or construction or any cost or expense incurred by reason of betterment or alteration in design or construction
- 10.10 motor and connections (but not strut shaft or propeller) electrical equipment and batteries and connections, where the loss or damage has been caused by heavy weather, unless the loss or damage has been caused by the vessel being immersed, but this clause 10.10 shall not exclude loss or damage caused by the vessel being stranded or in collision or contact with another vessel, pier or jetty.



## 11. LIABILITIES TO THIRD PARTIES

This Clause only to apply when a sum is stated for this purpose in the Schedule to the policy.

- 11.1 The Underwriters agree to indemnify the Assured for any sum or sums which the Assured shall become legally liable to pay and shall pay, by reason of interest in the insured vessel and arising out of accidents occurring during the currency of this insurance, in respect of

11.1.1 loss of or damage to any other vessel or property whatsoever

11.1.2 loss of life, personal injury or illness, including payments made for life salvage, caused on or near the vessel or any other vessel

11.1.3 any attempted or actual raising, removal or destruction of the wreck of the insured vessel or the cargo thereof or any neglect or failure to raise, remove or destroy the same.

### 11.2 LEGAL COSTS

The underwriters will also pay, provided their prior written consent has been obtained,

11.2.1 the legal costs incurred by the Assured or which the Assured may be compelled to pay in contesting liability or taking proceedings to limit liability

11.2.2 the costs for representation at any coroner's inquest or fatal accident enquiry.

### 11.3 SISTERSHIP

Should the vessel hereby insured come into collision with or receive salvage services from another vessel belonging wholly or in part to the same Owners or under the same management, the Assured shall have the same rights under this insurance as they would have were the other vessel entirely the property of Owners not interested in the vessel hereby insured; but in such cases the liability for the collision or the amount payable for the services rendered shall be referred to a sole arbitrator to be agreed upon between the Underwriters and the Assured.

### 11.4 NAVIGATION BY OTHER PERSONS

The provisions of this Clause 11 shall extend to any person navigating or in charge of the insured vessel with the permission of the Assured named in this insurance (other than a person operating, or employed by the operator of, a shipyard, marina, repair yard, slipway, yacht club, sales agency or similar organisation) and who while so navigating or in charge



of the vessel shall in consequence of any occurrence covered by this Clause 11 become liable to pay and shall pay any sum or sums to any person or persons, other than to the Assured named in this insurance, but indemnity under this Clause shall inure to the benefit of the Assured and only to a person navigating or in charge of the vessel as described above, at the written request of and through the agency of the Assured. Nothing in this extension shall increase the Underwriters' liability beyond the limitation of liability imposed by Clause 11.8 below and this extension shall be subject to all other terms conditions and warranties of this insurance.

Nothing in this Clause 11.4 shall be deemed to override the provisions of Clause 3.2 above.

#### 11.5 REMOVAL OF WRECK EXTENSION

This insurance also to pay the expenses, after deduction of the proceeds of the salvage, of the removal of the wreck of the insured vessel from any place owned, leased or occupied by the Assured.

#### 11.6 LIABILITIES SECTION EXCLUSIONS

Notwithstanding the provisions of this Clause 11 this insurance does not cover any liability cost or expense arising in respect of

11.6.1 any direct or indirect payment by the Assured under workmen's compensation or employers' liability acts and any other statutory or common law liability in respect of accidents to or illness of workmen or any other persons employed in any capacity whatsoever by the Assured or by any person to whom the protection of this insurance is afforded by reason of the provisions of Clause 11.4 above, in on or about or in connection with the vessel hereby insured or her cargo, materials or repairs

11.6.2 any boat belonging to the vessel and having a maximum designed speed exceeding 17 knots, unless such boat is specially covered herein and subject also to the conditions of the Speedboat Clause 19 below, or is on the parent vessel or laid up ashore

11.6.3 any liability to or incurred by any person engaged in water skiing or aquaplaning, while being towed by the vessel or preparing to be towed or after being towed until safely on board or ashore

11.6.4 any liability to or incurred by any person engaged in a sport or activity, other than water skiing or aquaplaning, while being towed by the vessel or preparing to be towed or after being towed until safely on board or ashore

11.6.5 punitive or exemplary damages, however described.

## 11.7 WATER-SKISERS LIABILITY

Should Clause 11.6.3 and/or Clause 11.6.4 above be deleted, the liabilities mentioned in such clause(s) shall be covered hereunder, subject always to the warranties, conditions and limits of this insurance.

## 11.8 LIMIT OF LIABILITY

The liability of the Underwriters under this Clause 11, in respect of any one accident or series of accidents arising out of the same event, shall in no case exceed the sum stated for this purpose in the Schedule to the policy, but when the liability of the Assured has been contested with the consent in writing of the Underwriters, the Underwriters will also pay a like proportion of the costs which the Assured shall thereby incur or be compelled to pay.

## 12. EXCESS AND DEDUCTIBLE

12.1 No claim arising from a peril insured against shall be payable under this insurance unless the aggregate of all such claims arising out of each separate accident or occurrence (including claims under Clause 11, 14 and 15) exceeds the amount stated for this purpose in the Schedule to the policy, in which case this sum shall be deducted. This Clause 12.1 shall not apply to a claim for total or constructive total loss of the vessel or, in the event of such a claim, to any associated claim under Clause 15 arising from the same accident or occurrence.

12.2 Prior to the application of Clause 12.1 above and in addition thereto, deductions new for old not exceeding one-third may be made at the Underwriters' discretion in respect of loss of or damage to

12.2.1 protective covers, sails and running rigging

12.2.2 outboard motors whether or not insured by separate valuation under this insurance.

## 13. NOTICE OF CLAIM AND TENDERS

13.1 Prompt notice shall be given to the Underwriters in the event of any occurrence which may give rise to a claim under this insurance, and any theft or malicious damage shall also be reported promptly to the Police.

13.2 Where loss or damage has occurred, notice shall be given to the Underwriters prior to survey and, if the vessel is abroad, also to the nearest Lloyd's Agent so that a surveyor may be appointed to represent the Underwriters should they so desire.

13.3 The Underwriters shall be entitled to decide the port to which the vessel shall proceed for docking or repair (the actual additional expense of the

voyage arising from compliance with Underwriters' requirements being refunded to the Assured) and shall have a right of veto concerning a place of repair or a repairing firm.

- 13.4 The Underwriters may also take tenders or may require tenders to be taken for the repair of the vessel.

#### 14. SALVAGE CHARGES

Subject to any express provision in this insurance, salvage charges incurred in preventing a loss by perils insured against may be recovered as a loss by those perils.

#### 15. DUTY OF ASSURED

- 15.1 In case of any loss or misfortune it is the duty of the Assured and their servants and agents to take such measures as may be reasonable for the purpose of averting or minimising a loss which would be recoverable under this insurance.
- 15.2 Subject to the provisions below and to Clause 12 the Underwriters will contribute to charges properly and reasonably incurred by the Assured their servants or agents for such measures. General average, salvage charges, collision defence or attack costs and costs incurred by the Assured in contesting liability covered by Clause 11.2 are not recoverable under this Clause 15.
- 15.3 The Assured shall render to the Underwriters all possible aid in obtaining information and evidence should the Underwriters desire to take proceedings at their own expense and for their own benefit in the name of the Assured to recover compensation or to secure an indemnity from any third party in respect of anything covered by this insurance.
- 15.4 Measures taken by the Assured or the Underwriters with the object of saving, protecting or recovering the subject-matter insured shall not be considered as a waiver or acceptance of abandonment or otherwise prejudice the rights of either party.
- 15.5 The sum recoverable under this Clause 15 shall be in addition to the loss otherwise recoverable under this insurance but in no circumstances shall amounts recoverable under Clause 15.2 exceed the sum insured under this insurance in respect of the vessel.

#### 16. UNREPAIRED DAMAGE

- 16.1 The measure of indemnity in respect of claims for unrepaired damage shall be the reasonable depreciation in the market value of the vessel at the time this insurance terminates arising from such unrepaired damage, but

not exceeding the reasonable cost of repairs.

- 16.2 In no case shall the Underwriters be liable for unrepaired damage in the event of a subsequent total loss (whether or not covered under this insurance) sustained during the period covered by this insurance or any extension thereof.
- 16.3 The Underwriters shall not be liable in respect of unrepaired damage for more than the insured value at the time this insurance terminates.

## 17. CONSTRUCTIVE TOTAL LOSS

- 17.1 In ascertaining whether the vessel is a constructive total loss, the insured value shall be taken as the repaired value and nothing in respect of the damaged or break-up value of the vessel or wreck shall be taken into account.
- 17.2 No claim for constructive total loss based upon the cost of recovery and/or repair of the vessel shall be recoverable hereunder unless such cost would exceed the insured value. In making this determination, only the cost relating to a single accident or sequence of damages arising from the same accident shall be taken into account.

## 18. DISBURSEMENTS WARRANTY

Warranted that no amount shall be insured policy proof of interest or full interest admitted for account of the Assured, Mortgagees or Owners on disbursements, commission, profits or other interests or excess or increased value of hull or machinery however described unless the insured value of the vessel is over £50,000 and then not to exceed 10 per cent of the total amount insured in respect of the vessel as stated in the Schedule to the policy.

Provided always that a breach of this warranty shall not afford the Underwriters any defence to a claim by a Mortgagee who has accepted this insurance without knowledge of such breach.

## 19. SPEEDBOAT CLAUSE

WHERE THIS CLAUSE 19 APPLIES IT SHALL OVERRIDE ANY CONFLICTING PROVISIONS IN THE CLAUSES ABOVE.

- 19.1 It is a condition of this insurance that when the vessel concerned is under way the Assured named in the Schedule to the policy or other competent person(s) shall be on board and in control of the vessel.
- 19.2 No claim shall be allowed in respect of loss of or damage to the vessel or liability to any third party or any salvage services
- 19.2.1 caused by or arising from the vessel being stranded sunk swamped

immersed or breaking adrift, while left moored or anchored  
unattended off an exposed beach or shore

19.2.2 arising while the vessel is participating in racing or speed tests, or  
any trials in connection therewith.

19.3 No claim shall be allowed in respect of rudder strut shaft or propeller

19.3.1 under Clauses 9.2.2.1 and 9.2.2.2

19.3.2 for any loss or damage caused by heavy weather, water or contact  
other than with another vessel, pier or jetty, but this Clause 19.3.2  
shall not exclude damage caused by the vessel being immersed as a  
result of heavy weather.

19.4 If the vessel is fitted with inboard machinery no liability shall attach to this  
insurance in respect of any claim caused by or arising through fire or  
explosion unless the vessel is equipped in the engine room (or engine  
space) tank space and galley, with a fire extinguishing system  
automatically operated or having controls at the steering position and  
properly installed and maintained in efficient working order.

## 20. CANCELLATION AND RETURN OF PREMIUM

This insurance may be cancelled by the Underwriters at any time subject to 30  
days notice to the Assured or by mutual agreement, when a pro rata daily net  
return of premium shall be made calculated on the premium charged for the in  
commission and/or laid up period.

**THE FOLLOWING CLAUSES SHALL BE PARAMOUNT AND SHALL  
OVERRIDE ANYTHING CONTAINED IN THIS INSURANCE INCONSISTENT  
THEREWITH.**

## 21. WAR EXCLUSION

In no case shall this insurance cover loss damage liability or expense caused by

21.1 war civil war revolution rebellion insurrection, or civil strife arising  
therefrom, or any hostile act by or against a belligerent power

21.2 capture seizure arrest restraint or detainment (barratry and piracy  
excepted), and the consequences thereof or any attempt thereat

21.3 derelict mines torpedoes bombs or other derelict weapons of war.

## 22. STRIKES AND POLITICAL ACTS EXCLUSION

In no case shall this insurance cover loss damage liability or expense caused by

22.1 strikers, locked-out workmen, or persons taking part in labour

disturbances, riots or civil commotions

22.2 any terrorist or any person acting from a political motive.

### 23. NUCLEAR EXCLUSION

In no case shall this insurance cover loss damage liability or expense arising from

- 23.1 any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter
- 23.2 ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
- 23.3 the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

1/11/85

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## INSTITUTE WAR AND STRIKES CLAUSES YACHTS

This insurance is subject to English law and practice

### 1. PERILS

Subject always to the exclusions hereinafter referred to, this insurance covers loss of or damage to the vessel caused by

- 1.1 war civil war revolution rebellion insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power
- 1.2 capture seizure arrest restraint or detainment, and the consequences thereof or any attempt thereat
- 1.3 derelict mines torpedoes bombs or other derelict weapons of war
- 1.4 strikers, locked-out workmen, or persons taking part in labour disturbances, riots or civil commotions
- 1.5 any terrorist or any person acting from a political motive
- 1.6 confiscation or expropriation.

Provided that the insurance against the perils under Clause 1 above (with the exception of Clause 1.4) shall not apply before the vessel has been launched or whilst she is hauled out ashore.

### 2. INCORPORATION

The Institute Yacht Clauses 1/11/85 except Clauses 2, 3, 4, 5, 6, 8, 9, 10, 12.1, 19, 20, 21, 22 and 23 are deemed to be incorporated in this insurance in so far as they do not conflict with the provisions of these clauses and providing that any indemnity in respect of any sum or sums for which the Assured may become legally liable in respect of any one accident or series of accidents arising out of the same event shall be limited to the sum stated for this purpose in this insurance or, if no such amount is stated, to the sum insured in respect of the vessel.

### 3. DETAINMENT

In the event that the vessel shall have been the subject of capture seizure arrest restraint detainment confiscation or expropriation, and the Assured shall thereby have lost the free use and disposal of the vessel for a continuous period of 12 months then for the purpose of ascertaining whether the vessel is a constructive total loss the Assured shall be deemed to have been deprived of the possession of the vessel without any likelihood of recovery.

#### 4. EXCLUSIONS

This insurance excludes

##### 4.1 loss damage liability or expense arising from

4.1.1 any detonation of any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter, hereinafter called a nuclear weapon of war

4.1.2 the outbreak of war (whether there be a declaration of war or not) between any of the following countries:

United Kingdom, United States of America, France, the Union of Soviet Socialist Republics, the People's Republic of China

4.1.3 requisition or pre-emption

4.1.4 capture seizure arrest restraint detainment confiscation or expropriation by or under the order of the government or any public or local authority of the country in which the vessel is owned or registered

4.1.5 arrest restraint detainment confiscation or expropriation under quarantine regulations or by reason of infringement of any customs or trading regulations

4.1.6 the operation of ordinary judicial process, failure to provide security or to pay any fine or penalty or any financial cause

4.1.7 piracy (but this exclusion shall not affect cover under Clause 1.4)

4.2 loss damage liability or expense covered by the Institute Yacht Clauses 1/11/85 or which would be recoverable thereunder but for Clause 12 thereof

4.3 any claim for any sum recoverable under any other insurance on the vessel or which would be recoverable under such insurance but for the existence of this insurance

4.4 any claim for expenses arising from delay except such expenses as would be recoverable in principle in English law and practice under the York-Antwerp Rules 1974.

#### 5. TERMINATION

5.1 This insurance may be cancelled by either the Underwriters or the Assured giving 7 days notice (such cancellation becoming effective on the expiry of 7 days from midnight of the day on which notice of cancellation



is issued by or to the Underwriters). The Underwriters agree however to reinstate this insurance subject to agreement between the Underwriters and the Assured prior to the expiry of such notice of cancellation as to new rate of premium and/or conditions and/or warranties.

**5.2 Whether or not such notice of cancellation has been given this insurance shall TERMINATE AUTOMATICALLY**

**5.2.1** upon the occurrence of any hostile detonation of any nuclear weapon of war as defined in Clause 4.1.1 wheresoever or whensoever such detonation may occur and whether or not the vessel may be involved

**5.2.2** upon the outbreak of war (whether there be a declaration of war or not) between any of the following countries:

United Kingdom, United States of America, France, the Union of Soviet Socialist Republics, the People's Republic of China

**5.2.3** in the event of the vessel being requisitioned, either for title or use.

**5.3** In the event either of cancellation by notice or of automatic termination of this insurance by reason of the operation of this Clause 5, or of the sale of the vessel, pro rata net return of premium shall be payable to the Assured.

**This insurance shall not become effective if, subsequent to its acceptance by the Underwriters and prior to the intended time of its attachment, there has occurred any event which would have automatically terminated this insurance under the provisions of Clause 5 above.**

1/11/85

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JWLA009

7 January 2009

JWC Hull War, Strikes, Terrorism and Related Perils

Listed Areas (7 January 2009)

**Africa**

Djibouti excluding transit

Somalia, including waters out to 250 nautical miles from the eastern Somalia coast south of Latitude 10° N.

Indian Ocean, beyond the eastern Somalia and Gulf of Aden areas out to 600 nautical miles from the coast of

eastern Africa, south of latitude 15° N and north of latitude 10° S, but excluding the coastal waters of Kenya

and Tanzania up to 12 nautical miles offshore.

Ivory Coast

Nigeria, including all Nigerian offshore installations

**Asia**

Pakistan

Sri Lanka

Thailand, but only the area of the southern Gulf coast between the ports of Songkhla and Narathiwat inclusive

**Eastern Europe**

Georgia

**Indonesia / Malaysia**

The island of Ambon (Seram)

The port of Balikpapan (SE Borneo) including waters out to 25 nautical miles

Borneo, but only the north east coast between the ports of Kudat and Tarakan inclusive

The port of Jakarta

The port of Poso (Sulawesi)

Sumatera (Sumatra), but only the North Eastern coast between 5° 40' N and 0° 48' N, excluding transit

**Middle East**

Bahrain excluding transit

Gulf of Aden, area as defined overleaf

Iraq, including all Iraqi offshore oil terminals

Israel

Lebanon

Qatar excluding transit

Saudi Arabia excluding transit

Yemen

Philippines, but only

Mindanao, between the ports of Polloc Harbour and Mati inclusive  
Sulu Archipelago including Jolo, as defined overleaf

**Definitions:**

**Named Countries** shall include their coastal waters up to 12 nautical miles offshore, unless

specifically varied above

**Named Ports** shall include all facilities/terminals within areas controlled by the relevant port

authority/ies (or as may be more precisely defined by Insurers) including offshore terminals/facilities, and all waters within 12 nautical miles of such but not exceeding 12

nautical miles offshore unless specifically stated.

**Sulu Archipelago**

The area enclosed between:

a) on the Western side, a straight line between Tanjung Bidadari (5°49' 6N, 118°21' 0E) to

position 3°32' 0N, 118°57' 0E

b) on the South Eastern side, a straight line from there to position 5°50' 0N, 122°31' 0E, and

thence northwards to position 7°06' 6N, 122°31' 0E

c) on the Northern side, a straight line from there to Batorampon Point Light (7°06' 6N, 121°53' 8E)

d) and on the North Western side, a straight line from there back to Tanjung Bidadari.

**Gulf of Aden**

The area enclosed by the following boundaries:

a) On the West, Longitude 45° E

b) on the North, Latitude 15° N

c) on the East, Longitude 57° E

d) and on the South, Latitude 10° N.

**INSTITUTE YACHT CLAUSES  
PERSONAL EFFECTS CLAUSES**

(For use only with the Institute Yacht Clauses 1/11/85 in insurances covering Vessels with lockable cabin accommodation)

The following extension shall apply provided that a separate amount insured in respect of Personal Effects is stated in the Schedule to the policy.

1 Subject always to its terms and conditions, this insurance is extended to cover (without reference to any excess and deductible in Clause 12.1 of the Institute Yacht Clauses 1/11/85, all risks of loss of or damage to Personal Effects, being the personal property of the Assured and/or of the Assured's family, and crew's clothes provided by the Owners, while on board or in use in connection with the insured Vessel, including while in transit from the Assured's place of residence to the insured Vessel, and until return to such place of residence, but EXCLUDING CLAIMS ARISING FROM:

- 1.1 wear and tear, gradual deterioration, damp, mould, mildew, vermin, moth and mechanical derangement
- 1.2 breakage of articles of a brittle nature, unless caused by the vessel being stranded, sunk, burnt, on fire or in collision, or by stress of weather, burglars or thieves
- 1.3 loss of cash, currency, banknotes or travellers cheques
- 1.4 loss of water-skis or diving equipment, unless as a result of fire or theft following forcible entry or of total loss of the Vessel
- 1.5 perils excluded by Clauses 21, 22 and 23 of the Institute Yacht Clauses 1/11/85.

**2 AVERAGE**

This insurance is subject to the condition of average, that is to say, if the property covered by this extension shall at the time of any loss be of greater value than the amount insured hereunder in respect thereof, the Assured shall only be entitled to recover such proportion of the said loss as such amount insured bears to the total value of the said property.

**3 NON-CONTRIBUTION**

This insurance does not cover any loss or damage which at the time of the happening of such loss or damage is or would, but for the existence of this insurance, be insured under any other insurance, except in respect of any

excess beyond the amount which would have been payable under such other insurance had this insurance not been effected.

**4 LIMIT OF INDEMNITY**

The amount recoverable under this Personal Effects extension shall be limited to the amount insured in respect thereof, as stated in the Schedule to the policy, (any single article valued at £100 or more to be specially declared).

1/11/85

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**INSTITUTE RADIOACTIVE CONTAMINATION, CHEMICAL, BIOLOGICAL,  
BIO-CHEMICAL AND ELECTROMAGNETIC WEAPONS EXCLUSION  
CLAUSE**

**This clause shall be paramount and shall override anything contained in this insurance inconsistent therewith**

**1. In no case shall this insurance cover loss damage liability or expense directly or indirectly caused by or contributed to by or arising from**

**1.1 ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel**

**1.2 the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof**

**1.3 any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter**

**1.4 the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. The exclusion in this sub-clause does not extend to radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored, or used for commercial, agricultural, medical, scientific or other similar peaceful purposes**

**1.5 any chemical, biological, bio-chemical, or electromagnetic weapon.**

10/11/03  
CL370

### **INSTITUTE CYBER ATTACK EXCLUSION CLAUSE**

- 1.1 Subject only to clause 1.2 below, in no case shall this insurance cover loss damage liability or expense directly or indirectly caused by or contributed to by or arising from the use or operation, as a means for inflicting harm, of any computer, computer system, computer software programme, malicious code, computer virus or process or any other electronic system.
- 1.2 Where this clause is endorsed on policies covering risks of war, civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power, or terrorism or any person acting from a political motive, Clause 1.1 shall not operate to exclude losses (which would otherwise be covered) arising from the use of any computer, computer system or computer software programme or any other electronic system in the launch and/or guidance system and/or firing mechanism of any weapon or missile.

10/11/03  
CL380



(FOR USE ONLY WITH THE CURRENT MAR POLICY FORM)

**INSTITUTE TIME CLAUSES - HULLS  
DISBURSEMENTS AND INCREASED VALUE  
(Total Loss only, including Excess Liabilities)**

This insurance is subject to English law and practice

**1. NAVIGATION**

- 1.1 The subject-matter insured is covered subject to the provisions of this insurance at all times and the vessel has leave to sail or navigate with or without pilots, to go on trial trips and to assist and tow vessels or craft in distress, but it is warranted that the vessel shall not be towed, except as is customary or to the first safe port or place when in need of assistance, or undertake towage or salvage services under a contract previously arranged by the Assured and/or Owners and/or Managers and/or Charterers. This Clause 1.1 shall not exclude customary towage in connection with loading and discharging.
- 1.2 This insurance shall not be prejudiced by reason of the Assured entering into any contract with pilots or for customary towage which limits or exempts the liability of the pilots and/or tugs and/or towboats and/or their owners when the Assured or their agents accept or are compelled to accept such contracts in accordance with established local law or practice.
- 1.3 The practice of engaging helicopters for the transportation of personnel, supplies and equipment to and/or from the vessel shall not prejudice this insurance.
- 1.4 In the event of the vessel being employed in trading operations which entail cargo loading or discharging at sea from or into another vessel (not being a harbour or inshore craft) no claim shall be recoverable under this insurance in respect of loss of or damage to the subject-matter insured or for liability to any other vessel arising from such loading or discharging operations, including whilst approaching, lying alongside and leaving, unless previous notice that the vessel is to be employed in such operations has been given to the Underwriters and any amended terms of cover and any additional premium required by them have been agreed.
- 1.5 In the event of the vessel sailing (with or without cargo) with an intention of being (a) broken up, or (b) sold for breaking up, no claim shall be recoverable under this insurance in respect of loss or damage to the vessel occurring subsequent to such sailing unless previous notice has been given

to the Underwriters and any amendments to the terms of cover, amount insured and premium required by them have been agreed.

## 2. CONTINUATION

Should the vessel at the expiration of this insurance be at sea and in distress or missing, she shall, provided notice be given to the Underwriters prior to the expiration of this insurance, be held covered until arrival at the next port in good safety or if in port and in distress until the vessel is made safe, at a pro rata monthly premium.

## 3. BREACH OF WARRANTY

Held covered in case of any breach of warranty as to cargo, locality, trade, towage, salvage services or date of sailing, provided notice be given to the Underwriters immediately after receipt of advices and any amended terms of cover and any additional premium required by them be agreed.

## 4. CLASSIFICATION

4.1 It is the duty of the Assured, Owners and Managers at the inception of and throughout the period of this insurance to ensure that

4.1.1 the vessel is classed with a Classification Society agreed by the Underwriters and that her class within that Society is maintained,

4.1.2 any recommendations requirements or restrictions imposed by the vessel's Classification Society which relate to the vessel's seaworthiness or to her maintenance in a seaworthy condition are complied with by the dates required by that Society.

4.2 In the event of any breach of the duties set out in Clause 4.1 above, unless the Underwriters agree to the contrary in writing, they will be discharged from liability under this insurance as from the date of the breach provided that if the vessel is at sea at such date the Underwriters discharge from liability is deferred until arrival at her next port.

4.3 Any incident condition or damage in respect of which the vessel's Classification Society might make recommendations as to repairs or other action to be taken by the Assured, Owners or Managers must be promptly reported to the Classification Society.

4.4 Should the Underwriters wish to approach the Classification Society directly for information and/or documents, the Assured will provide the necessary authorization.

## 5. TERMINATION

This Clause 5 shall prevail notwithstanding any provision whether written typed or printed in this insurance inconsistent therewith.

Unless the Underwriters agree to the contrary in writing, this insurance shall terminate automatically at the time of

- 5.1 change of the Classification Society of the vessel, or change, suspension, discontinuance, withdrawal or expiry of her Class therein, or any of the Classification Society's periodic surveys becoming overdue unless an extension of time for such surveys be agreed by the Classification Society, provided that if the vessel is at sea such automatic termination shall be deferred until arrival at her next port. However where such change, suspension, discontinuance or withdrawal of her Class or where a periodic survey becoming overdue has resulted from loss or damage covered by Clause 6 of this insurance or which would be covered by an insurance of the vessel subject to current Institute Time Clauses-Hulls or Institute War and Strikes Clauses Hulls-Time such automatic termination shall only operate should the vessel sail from her next port without the prior approval of the Classification Society or in the case of a periodic survey becoming overdue without the Classification Society having agreed an extension of time for such survey,
- 5.2 any change, voluntary or otherwise, in the ownership or flag, transfer to new management, or charter on a bareboat basis, or requisition for title or use of the vessel, provided that, if the vessel has cargo on board and has already sailed from her loading port or is at sea in ballast, such automatic termination shall if required be deferred, whilst the vessel continues her planned voyage, until arrival at final port of discharge if with cargo or at port of destination if in ballast. However, in the event of requisition for title or use without the prior execution of a written agreement by the Assured, such automatic termination shall occur fifteen days after such requisition whether the vessel is at sea or in port.

A pro rata daily net return of premium shall be made provided that a total loss of the vessel, whether by insured perils or otherwise, has not occurred during the period covered by this insurance or any extension thereof.

## 6. PERILS

- 6.1 This insurance covers total loss (actual or constructive) of the subject-matter insured caused by
  - 6.1.1 perils of the seas rivers lakes or other navigable waters
  - 6.1.2 fire, explosion

- 6.1.3 violent theft by persons from outside the vessel
- 6.1.4 jettison
- 6.1.5 piracy
- 6.1.6 contact with land conveyance, dock or harbour equipment or installation
- 6.1.7 earthquake volcanic eruption or lightning
- 6.1.8 accidents in loading discharging or shifting cargo or fuel.
- 6.2 This insurance covers total loss (actual or constructive) of the subject-matter insured caused by
  - 6.2.1 bursting of boilers breakage of shafts or any latent defect in the machinery or hull
  - 6.2.2 negligence of Master Officers Crew or Pilots
  - 6.2.3 negligence of repairers or charterers provided such repairers or charterers are not an Assured hereunder
  - 6.2.4 barratry of Master Officers or Crew
  - 6.2.5 contact with aircraft, helicopters or similar objects, or objects falling therefromprovided such loss or damage has not resulted from want of due diligence by the Assured, Owners, Managers or Superintendents or any of their onshore management.
- 6.3 Master Officers Crew or Pilots not to be considered Owners within the meaning of this Clause 6 should they hold shares in the vessel.
- 6.4 This insurance covers:
  - 6.4.1 General Average, Salvage and Salvage Charges recoverable under the insurances on hull and machinery but not recoverable in full by reason of the difference between the insured value of the vessel as stated therein (or any reduced value arising from the deduction therefrom in process of adjustment of any claim which law or practice or the terms of the insurances covering hull and machinery may have required) and the value of the vessel adopted for the purpose of contribution to general average, salvage or salvage charges, the liability under this insurance being for such proportion of the amount not recoverable as the amount insured hereunder

bears to the said difference or to the total sum insured against excess liabilities if it exceed such difference.

6.4.2 **Sue and labour Charges** recoverable under the insurances on hull and machinery but not recoverable in full by reason of the difference between the insured value of the vessel as stated therein and the value of the vessel adopted for the purpose of ascertaining the amount recoverable under the insurances on hull and machinery, the liability under this insurance being for such proportion of the amount not recoverable as the amount insured hereunder bears to the said difference or to the total sum insured against excess liabilities if it exceed such difference.

6.4.3 **Collision Liability (three-fourths)** recoverable under the Institute 3/4ths Collision Liability and Sistership Clauses in the insurances on hull and machinery but not recoverable in full by reason of such three-fourths liability exceeding three-fourths of the insured value of the vessel as stated therein, in which case the amount recoverable under this insurance shall be such proportion of the difference so arising as the amount insured hereunder bears to the total sum insured against excess liabilities.

6.5 The Underwriters' liability under 6.4.1, 6.4.2 and 6.4.3 separately, in respect of any one claim, shall not exceed the amount insured hereunder.

## 7. POLLUTION HAZARD

This insurance covers total loss (actual or constructive) of the vessel caused by any governmental authority acting under the powers vested in it to prevent or mitigate a pollution hazard or damage to the environment, or threat thereof, resulting directly from damage to the vessel caused by a peril covered by this insurance, provided that such act of governmental authority has not resulted from want of due diligence by the Assured, Owners or Managers to prevent or mitigate such hazard or threat thereof. Master Officers Crew or Pilots not to be considered Owners within the meaning of this Clause 7 should they hold shares in the vessel.

## 8. NOTICE OF CLAIM

In the event of accident whereby loss or damage may result in a claim under this insurance, notice must be given to the Underwriters promptly after the date on which the Assured, Owners or Managers becomes or should have become aware of the loss or damage and prior to survey so that a surveyor may be appointed if the Underwriters so desire.

If notice is not given to the Underwriters within twelve months of that date unless the Underwriters agree to the contrary in writing, the Underwriters will be



automatically discharged from liability for any claim under this insurance in respect of or arising out of such loss or damage.

## 9. CONSTRUCTIVE TOTAL LOSS

- 9.1 In ascertaining whether the vessel is a constructive total loss, the insured value in the insurances on hull and machinery shall be taken as the repaired value and nothing in respect of the damaged or break-up value of the vessel or wreck shall be taken into account.
- 9.2 No claim for constructive total loss based upon the cost of recovery and/or repair of the vessel shall be recoverable hereunder unless such cost would exceed the insured value in the insurances on hull and machinery. In making this determination, only the cost relating to a single accident or sequence of damages arising from the same accident shall be taken into account.
- 9.3 Provided that the Constructive Total Loss Clause in the current Institute Time Clauses Hulls or a clause having a similar effect is contained in the insurances on hull and machinery, the settlement of a claim for constructive total loss thereunder shall be accepted as proof of the constructive total loss of the vessel.
- 9.4 Should the vessel be a constructive total loss but the claim on the insurances on hull and machinery be settled as a claim for partial loss, no payment shall be due under this Clause 9.

## 10. COMPROMISED TOTAL LOSS

In the event of a claim for total loss or constructive total loss being settled on the insurances on hull and machinery as a compromised total loss the amount payable hereunder shall be the same percentage of the amount insured as is paid on the said insurances.

## 11. ASSIGNMENT

No assignment of or interest in this insurance or in any moneys which may be or become payable thereunder is to be binding on or recognised by the Underwriters unless a dated notice of such assignment or interest signed by the Assured and by the assignor in the case of subsequent assignment, is endorsed on the Policy and the Policy with such endorsement is produced before payment of any claim or return of premium thereunder.

## 12. RETURNS FOR LAY-UP AND CANCELLATION

- 12.1 To return as follows:

- 12.1.1 pro rata monthly net for each uncommenced month if this insurance be cancelled by agreement.

12.1.2 for each period of 30 consecutive days the vessel may be laid up in a port or in a lay-up area provided such port or lay-up area is approved by the Underwriters

(a) [Response] per cent net not under repair

(b) [Response] per cent net under repair.

12.1.3 The vessel shall not be considered to be under repair when work is undertaken in respect of ordinary wear and tear of the vessel and/or following recommendations in the vessel's Classification Society survey, but any repairs following loss or damage to the vessel or involving structural alterations, whether covered by this insurance or otherwise shall be considered as under repair.

12.1.4 If the vessel is under repair during part only of a period for which a return is claimable, the return shall be calculated pro rata to the number of days under 12.1.2 (a) and (b) respectively.

## 12.2 PROVIDED ALWAYS THAT

12.2.1 a total loss of the vessel, whether by insured perils or otherwise, has not occurred during the period covered by this insurance or any extension thereof

12.2.2 in no case shall a return be allowed when the vessel is lying in exposed or unprotected waters, or in a port or lay-up area not approved by the Underwriters

12.2.3 loading or discharging operations or the presence of cargo on board shall not debar returns but no return shall be allowed for any period during which the vessel is being used for the storage of cargo or for lightering purposes

12.2.4 in the event of any amendment of the annual rate, the above rates of return shall be adjusted accordingly

12.2.5 in the event of any return recoverable under this Clause 12 being based on 30 consecutive days which fall on successive insurances effected for the same Assured, this insurance shall only be liable for an amount calculated at pro rata of the period rates 12.1.2 (a) and/or (b) above for the number of days which come within the period of this insurance and to which a return is actually applicable. Such overlapping period shall run, at the option of the Assured, either from the first day on which the vessel is laid up or the first day of a period of 30 consecutive days as provided under 12.1.2 (a) or (b) above.



The following clauses shall be paramount and shall override anything contained in this insurance inconsistent therewith.

### 13. WAR EXCLUSION

In no case shall this insurance cover loss damage liability or expense caused by

- 13.1 war civil war revolution rebellion insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power
- 13.2 capture seizure arrest restraint or detainment (barratry and piracy excepted), and the consequences thereof or any attempt thereat
- 13.3 derelict mines torpedoes bombs or other derelict weapons of war.

### 14. STRIKES EXCLUSION

In no case shall this insurance cover loss damage liability or expense caused by

- 14.1 strikers, locked-out workmen, or persons taking part in labour disturbances, riots or civil commotions
- 14.2 any terrorist or any person acting from a political motive.

### 15. MALICIOUS ACTS EXCLUSION

In no case shall this insurance cover loss damage liability or expense arising from

- 15.1 the detonation of an explosive
- 15.2 any weapon of war

and caused by any person acting maliciously or from a political motive.

### 16. RADIOACTIVE CONTAMINATION EXCLUSION CLAUSE

In no case shall this insurance cover loss damage liability or expense directly or indirectly caused by or contributed to by or arising from

- 16.1 ionising radiations from or contaminations by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel
- 16.2 the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof
- 16.3 any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.

1/11/95

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**INSTITUTE YACHT CLAUSES  
MACHINERY DAMAGE EXTENSION CLAUSE**

Notwithstanding the provisions of Clauses 9.2.2.1, 9.2.2.2 and 10.10 of the Institute Yacht Clauses 1/11/85, but subject always to the other terms and conditions of this insurance, cover is extended to include loss of or damage to motor and connections electrical equipment and batteries and connections caused by:-

- (1) latent defects in hull or machinery, breakage of shafts or bursting of boilers (excluding the cost and expense of replacing or repairing the defective part, broken shaft or burst boiler)
- (2) the negligence of any person whatsoever, but excluding the cost of making good any defect resulting from either negligence or breach of contract in respect of any repair or alteration work carried out for the account of the Assured and/or the Owners or in respect of the maintenance of the Vessel
- (3) heavy weather.

1/11/85

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**INSTITUTE TIME CLAUSES - HULLS**

**LEASED EQUIPMENT CLAUSE**

This insurance is extended to cover loss of or damage to equipment and apparatus not owned by the Assured but installed for use on the vessel and for which the Assured has assumed contractual liability, whether such equipment or apparatus be in the nature of aids to navigation or communication or otherwise and where such loss or damage is caused by a peril insured under this insurance, subject in all other respects to its terms, conditions and exclusions. In no event shall the liability of the Underwriters exceed the lesser of the contractual liability of the Assured for loss of or damage to such equipment or apparatus or its replacement value. All such equipment and apparatus shall be included in the insured value of the vessel.

1/11/95

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**HULL WAR, STRIKES, TERRORISM AND RELATED PERILS  
NOTICE OF CANCELLATION ADMINISTRATION CLAUSE (JW2005/001B)**

Where Underwriters wish to give notice of cancellation (herein "Notice") in accordance with the terms of the insurance (to which this clause is attached) for the purpose of amending the terms conditions warranties and/or rates, it is agreed as follows:

1. The Notice shall be given by the Leading Underwriter only (on behalf of all Underwriters subscribing to this insurance).
2. The Notice shall identify the policy (by number / Unique Market Reference [UMR], principal Assured, and Interest insured) to which the Notice applies.
3. Where the Notice is given through the broker, the Notice shall be deferred by three working days to enable the broker to transmit the Notice to the Assured(s), mortgagee(s) and other parties to whom the broker has an obligation to transmit the Notice.
4. If the Notice is given for the purpose of amending the listed areas applicable under the Navigation Limitations for War, Strikes, Terrorism and Related Perils (herein "War Risks"):
  - 4.1 where the insurance covers both (a) War Risks and (b) marine and/or other non-war risks, the Notice shall only apply to the cover for War Risks;
  - 4.2 the insurances will be considered as automatically reinstated upon expiry of the Notice, subject to the said listed areas being amended in line with the changes outlined in the Notice;
  - 4.3 in the absence of notice in writing having been received from the Assured prior to the expiry of the Notice,
    - (i) the Assured shall be deemed to have agreed to such amendment of the said listed areas,
    - (ii) the insurance will be automatically reinstated upon expiry of the Notice subject to such amendment of the said listed areas, and
    - (iii) such amendment shall be deemed to have been endorsed upon and form part of the insurance;

4.4 where the listed areas applying to this insurance prior to the Notice have been the subject of any deletion amendment limitation or restriction, such deletion amendment limitation or restriction

(a) shall continue to apply *mutatis mutandis* to the new listed areas, but

(b) shall not apply to any port(s) and/or place(s) and/or area added in consequence of the Notice;

4.5 notwithstanding the foregoing, should the insurance already be subject to navigation limitations so limiting the area of trading that any port(s) and/or place(s) and/or area to be added in consequence of the Notice would not in any case have been a permitted port(s) of call or area of trading, the insurance shall not be subject to the Notice.

5. If this clause is endorsed upon any policy or contract of reinsurance, the terms "Assured" and "insurance" shall be deemed to be amended to read "Reassured" and "reinsurance" respectively.

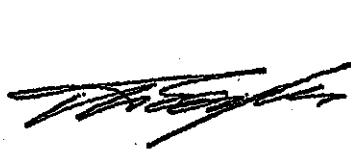
20/06/05  
JW2005/001B

**SECURITY:**

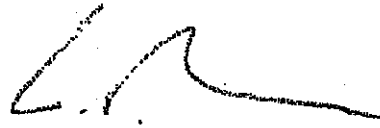
77.27%	Underwriting members of Lloyd's, London.
22.73%	Royal & SunAlliance
100.00%	Total (being 100% of Order Hereon)

The coverage is subject to all terms and conditions of any policy(ies)/wording(ies) that is(are) issued in relation to this cover note. In the event of any inconsistency herewith the terms and provisions of such policy(ies)/wording(s) shall prevail.

**OAMPS SPECIAL RISKS LIMITED**



**Authorised Signatory**



**Authorised Signatory**



## COMPLAINTS PROCEDURE FOR CLIENTS

We are regulated by the Financial Services Authority (FSA) and it is our intention to provide you at all times with a high level of customer service. If you have any reason whatsoever to be unhappy with your (re)insurance arrangements, our performance or our service, please contact The Compliance Officer, either:

In writing: Oamps Special Risks Limited  
40 Lime Street, London EC3M 7AW

By telephone: 020 7929 6880

By email: [info@oamps-sr.com](mailto:info@oamps-sr.com)

Your custom is valuable to us and we want you to be satisfied completely with the response and service we give. Your complaint will be acknowledged within five business days of receipt. You will be advised of the person who will be dealing with your concerns and when you can expect to receive a response. We aim to provide you with a full written response within twenty business days to the matters you have raised, unless the complaint is particularly complicated and warrants further investigation. If this is the case, you will be advised in writing if more time is required to provide you with a satisfactory response.

Our aim is to resolve all problems internally in a fair and speedy manner. If you are unable to settle your complaint with us, you may be entitled to refer it to the Financial Ombudsman Service who can be contacted in writing at:

Financial Ombudsman Service  
South Quay Plaza  
183 Marsh Wall  
London E14 9SR

You can also access information on their website: [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)

We are covered by the Finance Services Compensation Scheme (FSCS). Full details and further information can be obtained via email: [enquiries@fscs.org.uk](mailto:enquiries@fscs.org.uk)

## PERSONAL DATA

Any personal information provided by you may be held by Oamps Special Risks Ltd. and your (re)insurer(s) in relation to your (re)insurance cover. It may be used by Oamps Special Risks Ltd. or your (re)insurers' relevant staff in making a decision concerning your (re)insurance for the purpose of servicing your cover and administering claims. Information must be passed to loss adjusters and (re)insurers for these purposes. This may involve the transfer of your information to countries which do not have data protection laws. Under data protection legislation, you can ask in writing for a copy of certain personal records held about you. A charge may be made for this service.

## AMERICAN YACHT FORM R12

### WARRANTIES AND GENERAL CONDITIONS (Applicable to all coverages unless otherwise indicated)

#### PRIVILEGES

In port and at sea, under power or sail, in docks and graving docks, in hauling and launching, on ways, gridirons, pontoons, and on shore. With leave to sail with or without pilots to tow and assist vessels or craft in all situations and to be towed and to go on trial trips.

#### PRIVATE PLEASURE WARRANTY

Warranted to be used solely for private pleasure purposes and not to be hired or chartered unless approved and permission endorsed hereon.

#### CONTINUATION CLAUSE

If the vessel insured hereunder is at sea, at the expiration of this policy, the risk may be continued until the arrival of the vessel at her port of destination and her being moored therein twenty-four (24) hours in good safety, provided notice be given to the Assurers and additional premium paid as required.

#### TRANSFER OF INTEREST

This insurance shall be void in case this Policy or the interest insured thereby shall be sold, assigned, transferred or pledged without the previous consent in writing of these Assurers.

#### PERSONAL NEGLIGENCE

Personal negligence or fault of the Owner or Assured in the navigation of the yacht or privity or knowledge in respect thereto (excepting loss, damage or liability wilfully or intentionally caused by the Owner or Assured) shall not relieve the Assurers of liability under this policy.

#### OTHER INSURANCE

If a named Assured has other insurance against a loss covered by any section of this Policy, the Assurers shall not be liable under this Policy for a greater proportion of such loss than the applicable amount stated bears to the total amount of all valid and collectible insurance against such loss. If an Assured other than a named Assured has other insurance against a loss covered by any section of this Policy, this insurance shall be excess over other such insurance.

#### NOTICE OF LOSS AND FILING OF PROOF

It is agreed by the Assured to report immediately to the Assurers or to their representative who shall have issued this Policy every occurrence which may become a claim under this Policy, and shall also file with the Assurers or their representative, a detailed sworn proof of loss and proof of interest and/or receipted bills in case of a partial loss, within ninety (90) days from date of loss.

#### PAYMENT OF LOSS

In case of loss payable under this Policy, such loss to be paid within ninety (90) days after satisfactory proof of loss and proof of interest in the property insured, all indebtedness of the Assured being first deducted.

#### SUBROGATION

It is agreed that upon payment of any loss, damage, or expense the Assurers are to be subrogated to all the rights of the Assured to the extent of such payment.

#### TIME FOR SUIT AGAINST THE ASSURERS

No suit or action on this Policy for the recovery of any claim shall be sustainable in any court of law or equity unless the Assured shall have fully complied with all the requirements of this Policy, nor unless commenced within one (1) year from the date of the happening or the occurrence out of which the claim arose, provided that where such limitation of time is prohibited by the laws of the state wherein this Policy is issued, then, and in that event, no suit or action under this Policy shall be sustainable unless commenced within the shortest limitation permitted under the laws of such state.

#### ACTION AGAINST THE ASSURERS

Any person or organization or the legal representative thereof who has secured judgement against the Assured shall be entitled to recover under this Policy to the extent of the insurance afforded by this Policy. Bankruptcy or insolvency of the Assured or of the Assured's estate shall not relieve the Assurers of any of their obligations thereunder.

#### LEGAL REPRESENTATION AND CO-OPERATION CLAUSE

The Assured shall co-operate with the Assurers and shall not assume any obligation, admit any liability or incur any expense for which the Assurers may be liable, without the written approval of the Assurers, except as may be necessary and permitted to safeguard the Yacht under the "SUE AND LABOR" clause in Section "A" of this Policy. In case the liability of the Assured shall be contested with the written approval of the Assurers first obtained, the Assurers will pay the cost and expense of such defense, in which event the Assurers shall have the option of naming the attorneys who shall represent the Assured in said defense, and, if such option is exercised, shall have the direction and control thereof. The Assured shall whenever required, attend hearings and trial and shall assist in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses, and in the conduct of suits and limitations proceedings.

**COVERAGE**

The insurance provided by this Section covers, subject to the exclusions and limitations of this Policy, against ALL RISKS of physical loss or damage to the property covered from any external cause, as well as physical loss or damage directly caused by fire, explosions, bursting of boilers, breakage of shafts, or any latent defect in the machinery or hull (excluding the cost and expense of repairing or replacing any defective part), provided such loss or damage has not resulted from want of due diligence or intentional damage by the owners of the Yacht or by the Assured; provided always that the amount recoverable hereunder shall not exceed the amount of insurance.

**DEDUCTIBLE CLAUSE**

When a deductible amount is stated on this Policy, each claim for loss or damage covered under Section "A" shall be adjusted separately and from the aggregate amount of the adjusted claim, the sum so stated shall be deducted. Such deduction shall not apply in the event of Total Loss or Constructive Total Loss of the vessel covered nor shall it apply with respect to claims under the Running Down Clause.

**EQUIPMENT SEPARATED AND ON SHORE**

It is also agreed that should any part of the furniture, boats or other property of the said yacht be separated and laid up on shore during the life of this policy, then this Policy shall cover the same to an amount not exceeding 50% of the sum stated under the heading "Amount of Insurance". The amount attaching on the said yacht shall be decreased by the amount so covered.

**VALUATION CLAUSE**

The said yacht, for so much as concerns the Assured by agreement between the Assured and the Assurers is and shall be valued at the amount stated under the heading "Agreed Valuation".

**NEW FOR OLD**

In the event of loss or damage, cost of repairs to be paid without deduction, new for old, except with respect to sails and covers of canvas or other like materials, the Assurers shall be liable for no more than the cost of repair or a reasonable value.

**CONSTRUCTIVE TOTAL LOSS**

No recovery for a constructive total loss shall be had hereunder unless the expense of recovering and repairing the vessel shall exceed the amount of insurance on hull and machinery.

**UNREPAIRED DAMAGE**

In no case shall the Assurers be liable for unrepaired damage in addition to a subsequent total loss sustained during the term covered by this Policy.

**PROPORTION OF LOSS COVERED**

Where the amount of insurance as set forth is less than the agreed valuation stated herein, the Assures shall be liable only for such proportion of any loss recoverable under this Section as the said amount of insurance bears to the said agreed valuation.

**STRIKES CLAUSE**

This insurance also covers loss of or damage to the property hereby insured caused by strikers, locked out workmen or persons taking part in labor disturbances, riots or civil commotions or caused by vandalism or persons acting maliciously.

**BOATS AND LAUNCHES**

The boats and launches of the yacht are insured also while afloat, whether underway or not, subject to all of the terms and conditions, including the Running Down Clause of this Policy.

**RUNNING DOWN CLAUSE**

And it is further agreed that if the yacht hereby insured shall come into collision with any other ship or vessel, and the Assured shall, in consequence thereof, become liable to pay, and shall pay by way of damages to any other person or persons, any sum or sums not exceeding in respect of any one such collision the value of the yacht hereby insured, we, the Assurers, will pay the Assured such sum or sums so paid up to the amount hereby insured. And in cases where the liability of the Assured has been contested, with the consent, in writing, of the Assurers, we will also pay the costs thereby incurred or paid; but when both vessels are to blame, then unless the liability of the owners of one or both of such vessels becomes limited by law, claims under the Collision Clause shall be settled on the principle of CROSS LIABILITIES, as if the owners of each vessel had been compelled to pay to the owners of the other of such vessels such one-half or other proportion of the latter's damages as may have been properly allowed in ascertaining the balance or sum payable by or to the Assured in consequence of such collision; and it is further agreed that the principles involved in this clause shall apply to the case where both vessels are the property, in part or in whole, of the same owners, all questions of responsibility and amount of liability as between the two vessels being left to the decision of a single Arbitrator, if the parties agree upon a single Arbitrator, or failing such agreement, to the decision of the Arbitrators, one to be appointed by the managing owners of both vessels, and one to be appointed by the majority in amount of the Underwriters interested in each vessel; the two Arbitrators chosen to choose a third Arbitrator before entering upon the reference, and the decision of such single, or of any two of such three Arbitrators, appointed as above, to be final and binding. Provided always that the foregoing clause shall in no case extend to any sum which the Assured may become liable to pay, or shall pay for removal of obstructions under statutory powers, for injury to harbours, wharves, piers, stages and similar structures, consequent on such collisions, or in respect of the cargo or engagements of the insured yacht, or for loss of life, or personal injury.

**MEMBER OF THE ASSURED'S FAMILY**

It is understood and agreed that the word "Assured" whenever used in the Running Down Clause in this Section shall include, in addition to the named Assured hereunder, irrespective of interest in the insured yacht, the members of the immediate family of the Assured, domiciled with the Assured, who may, at the time liability was incurred, be operating the yacht with the prior permission of the Assured.

**SUE AND LABOR CLAUSE**

And in case of any loss or misfortune, it shall be lawful and necessary for the Assured, their factors, servants and assigns, to sue, labor and travel for, in and about the defense, safeguard and recovery of the said yacht or any part thereof, without prejudice to this insurance; the charges whereof we, the Assurers, will pay. And it is especially declared and agreed that no acts of the Assurer or Assured in recovery, saving or preserving the property insured shall be considered as a waiver or acceptance of abandonment.

**EXCLUSIONS****THIS INSURANCE DOES NOT COVER**

1. Any loss or damage directly or indirectly caused by or resulting from wear and tear, gradual deterioration, inherent vice, marine borers, vermin or electrolysis.
2. Theft or mysterious disappearance of equipment or accessories, other than boats and launches and their motors, unless occurring in conjunction with theft of the entire yacht or unless there be visible evidence of forcible entry.
3. Any loss, damage or expense caused by or in consequence of ice and/or freezing.
4. Any loss, damage or expense directly or indirectly caused by or in consequence of faulty construction and/or improper design.
5. Any loss, or damage to electrical apparatus, including wiring, directly or indirectly caused by electricity, other than lightning unless fire ensues and then only for loss or damage by such ensuing fire.
6. Wages and/or provisions whether the average be particular or general.
7. Mechanical breakdown or derangement of machinery.
8. Any loss of use, demurrage or charter hire to the yacht insured hereunder.

**SECTION "B" - PROTECTION AND INDEMNITY INSURANCE**

If the Assured shall by reason of his interest in the insured yacht become liable to pay and shall pay any sum or sums in respect of any responsibility, claim, demand, damages, and/or expense or shall become liable for any other loss arising from or occasioned by any of the following matters or things during the currency of this Policy in respect of the yacht hereby insured, that is to say:-

**Property Damage (I)** Loss of or damage to any other ship or boat or goods, merchandise, freight or other things or interest whatsoever, on board such other ship or boat, caused proximately or otherwise by the yacht insured in so far as the same would not be covered by the Running Down Clause in Section "A" of this Policy.

Loss of or damage to any goods, merchandise, freight or other things of interest whatsoever other than as aforesaid, whether on board said yacht or not, which may arise from any cause whatsoever;

Loss or damage to any harbor, dock (graving or otherwise), slipway, way, gridiron, pontoon, pier, quay, jetty, stage, buoy, telegraph cable, or other fixed or movable thing whatsoever, or to any goods or property in or on the same, however caused;

Any attempted or actual raising, removal or destruction of the wreck of the insured ship or the cargo thereof, or any neglect or failure to raise, remove or destroy the same;

The Assurers will pay the Assured such sum or sums so paid, or which may be required to indemnify the Assured for such loss; PROVIDED always that the amount recoverable hereunder in respect to any one accident or series of accidents arising out of the same event shall not exceed the sum stated under Limit of Protection and Indemnity Insurance.

**Bodily Injury (II)** Loss of life, illness, or bodily injury and payments made on account of life salvage;

The assurers will pay the Assured such sum or sums so paid or which may be required to indemnify the Assured for such loss; PROVIDED always that the liability of these Assurers is limited to the sum stated under Limit of Protection and Indemnity Insurance, and subject to the same limit for each person. It being understood that this limit applies to any one accident or series of accidents arising out of the same event.

**Costs (III)** And in case the liability of the Assured shall be contested in any suit or action with the consent in writing of these Assurers, we will also pay such ensuing costs as the Assured may incur as a result of such suit or action.

**AGGREGATE LIMIT**

The total amount recoverable under the Protection and Indemnity Insurance coverage of this Policy, for all losses, including property damage, personal injury, loss of life, payments made on account of life salvage, and costs, resulting from any accident or series of accidents arising out of the same event, shall not exceed, in the aggregate, the sum stated under Limit of Protection and Indemnity Insurance.

**POLLUTION**

This policy does not insure against any loss, damage, cost, liability, or expense, imposed on the Assured, arising out of the discharge, dispersal, release, or escape of oil, fuel, chemicals: waste materials, or other pollutants, but this exclusion does not apply if such discharge, dispersal, release or escape is sudden and accidental.

**MEMBERS OF ASSURED'S FAMILY**

It is understood and agreed that the word "Assured" whenever used in this Section shall include, in addition to the named Assured hereunder, irrespective of interest in the insured yacht, the members of the immediate family of the Assured, domiciled with the Assured, who may, at the time liability was incurred, be operating the yacht with the prior permission of the Assured.



**EXAMINATION UNDER OATH**

The Assured, as often as may be reasonably required, shall exhibit to any person designated by the Assurers all that remains of any property herein described and shall submit, and in so far as is within his or their power cause his or their employees, members of the household and others to submit to examinations under oath by any person named by the Assurers and subscribe the same; and as often as may be reasonably required, shall produce for examination all writings, books of account, bills, invoices and other vouchers, or certified copied thereof if originals be lost, at such reasonable time and place as may be designated by the Assurers or their representative, and shall permit extracts and copies thereof to be made. No such examinations under oath or examination of books or documents, nor any other act of the Assurers or any of their employees or representatives in connection with the investigation of any loss or claim hereunder, shall be deemed a waiver of any defense which the Assurers might otherwise have with respect to any loss or claim, but all such examinations and acts shall be deemed to have been made or done without prejudice to the Assurers' liability.

**MISREPRESENTATION OR FRAUD**

This entire Policy shall be void if the Assured or their representative has concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the Assured therein, or in case of fraud or false swearing by the Assured touching any matter relating to this insurance or the subject thereof whether before or after a loss.

**NOTICE OF CANCELLATION AND RETURN PREMIUMS FOR CANCELLATION**

This Policy may be cancelled by the Assured by surrender thereof to the Assurers or their representative by mailing to the Assurers or their representative written notice stating when thereafter such cancellation shall be effective. This Policy may be cancelled by the Assurers or their representative by mailing to the Assured at the address shown in this Policy or last known address, written notice stating when not less than ten (10) days thereafter such cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice. The time of surrender or the effective date of the cancellation stated in the notice shall become the end of the Policy period. Delivery of such written notice either by the Assured or by the Assurers or their representative shall be equivalent to mailing.

If the Assured cancels, earned premiums shall be computed in accordance with the customary short rate table and procedure.

If the Assurer cancels, earned premium shall be computed pro-rata.

Premium adjustment may be made at the time cancellation is effected and, if not then made, shall be made as soon as practicable after cancellation becomes effective. The Assurers or their representatives check mailed or delivered as aforesaid shall be sufficient tender of any refund of premium due to the Assured.

**PREMIUM FULLY EARNED**

There shall be no return of premium under any section of this policy if the insured yacht is a total or constructive total loss by a peril insured against.

**PARAMOUNT EXCLUSIONS**

Any claim for loss, damage or expense caused by or resulting from capture, seizure, arrest, restraint or detainment or the consequences thereof or of any attempt threat or any taking of the vessel, by requisition or otherwise, whether in time of peace or war and whether lawful or otherwise; also from all consequences of hostilities or warlike operations (Whether there be a declaration of war or not) but the foregoing shall not exclude collision or contact with aircraft, rockets or similar missiles, or with any fixed or floating object (other than a mine or torpedo), stranding, heavy weather, fire or explosion unless caused directly (and independently of the nature of the voyage or service which the vessel concerned or, in the case of a collision, any other vessel involved therein is performing) by a hostile act by or against a belligerent power, and for the purpose of this warranty "power" includes any authority maintaining naval, military or air forces in association with a power; also warranted free, whether in time of peace or war, from all loss, damage or expense caused by any weapon of war employing atomic or nuclear fission and/or other fusion or other reaction or radioactive force of matter.

Further warranted free from the consequences of civil war, revolution, rebellion, insurrection, or civil strife arising there from, or piracy.

This Policy is made and accepted subject to the foregoing stipulations and conditions, and to the conditions on the following pages which are hereby specially referred to and made a part of this Policy, it being understood and agreed that in the case of any conflict or inconsistency the foregoing provisions shall prevail over those which follow; provided, however, that with respect to any insurance under Section "E" of this policy the liability of the Assurers for the term above stated shall be in all respects as provided in such Section "E", unaffected by any other condition or provision of this Policy.

**SECTION "A" - HULL INSURANCE****PROPERTY COVERED**

Upon the Hull, Spars, Sails, Fittings, Gear and Equipment, Apparel, Provisions, Stores, Machinery, Boats and other Furniture and Furnishings of and in the yacht hereby insured, subject to all of the terms and conditions (including the Running Down Clause) of this Policy.

The foregoing does not include fishing tackle, moorings or personal property.

**PROPORTION OF LOSSES COVERED**

Where the amount of insurance as set forth is less than the agreed valuation stated therein, the Assurers shall be liable only for such proportion of any loss recoverable under this Section as the said amount of insurance bears to the said agreed valuation.

**EXCLUSIONS:****THE ASSURERS WILL NOT BE LIABLE FOR:**

Any fine, or penalty or assessment against the Assured or yacht named herein, by any national, state or local government;  
 Liability of any charterer of the yacht named herein;  
 Any liability assumed by the Assured under any contract or agreement unless specifically endorsed hereon.

**SECTION "C" - OMNIBUS CLAUSE**

It is understood and agreed that the word "Assured" whenever used in the Running Down Clause in Section "A" - Hull Insurance, of this policy, and whenever used in Section "B" - Protection and Indemnity Insurance of this Policy, includes in addition to the named Assured any person, firm, corporation or other legal entity who may be operating the vessel with the prior permission of the named Assured, but does not include a charterer or a paid Master or a paid member of the crew of the insured vessel or a person, firm, corporation or other legal entity, or any agent or employee thereof, operating a shipyard, boat repair yard, marina, yacht club, sales agency, boat service station, or similar organization. Notwithstanding anything contained herein, the insurance provided by this clause does not cover liability of such additional Assureds to the Assured and/or Assureds named in this Policy. This insurance is conditioned upon compliance by an Assured with all the terms, conditions and warranties applicable to the named Assured. Nothing contained herein shall be construed to increase the limits of the Assurers' liability as stated in this policy.

**SECTION "D" - MEDICAL PAYMENTS INSURANCE**

The Assurers agree to pay to or for each person who sustains bodily injury caused by accident occurring during the Policy period, while in or upon, boarding or leaving the yacht insured hereunder, the reasonable expense of necessary medical, surgical, ambulance, hospital and professional nursing services and, in the event of death resulting from such injury, the reasonable funeral expense, all incurred within one (1) year from the date of accident, subject to the following conditions:

**LIMIT OF LIABILITY**

Notwithstanding the foregoing, the Assurers shall not be liable hereunder for any expense or combined expense incurred in excess of that stated, as a result of any one accident or series of accidents arising out of the same event.

**EXCLUSIONS****THE COVERAGE AFFORDED SHALL NOT APPLY**

1. To bodily injury to or death of any person;
  - (a) To or for whom benefits are payable under any Workmen's Compensation or under the Federal Longshoremen's and Harbor Workers' Compensation Act;
  - (b) Who is a trespasser in or upon or boarding or leaving the insured yacht;
  - (c) Who is an employee of the Assured while engaged in the employment of the Assured except those in domestic service for whom no benefits are payable or required to be provided under any Workmen's Compensation Law;
2. To liability assumed by the Assured under any contract or agreement.
3. While the yacht is being used for other than private pleasure purposes.
4. To death of the Assured or registered owner of the yacht.
5. To bodily injury to the Assured or registered owner of the yacht, unless in excess of any other medical payments insurance collectible.

**MEDICAL REPORTS; PROOF AND PAYMENT OF CLAIM**

As soon as practicable, the injured person or someone on his behalf shall give the Assurers written proof of claim, under oath if required, and shall, after each request from the Assurers, execute authorisation to enable the Assurers to obtain medical reports and copies of records. The injured person shall submit to physical examination by physicians selected by the Assurers when and as often as the Assurers may reasonably require.

The Assurers may pay the injured person or any persons or organizations rendering the services and such payment shall reduce the amount payable hereunder for such injury: Payment hereunder shall not constitute admission of liability of the Assured, or, except hereunder, of the Assurers.

**SECTION "E" - FEDERAL LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION INSURANCE**

The Assurers agree to insure under this Section for the term of the policy as stated, any liability of the Assured in respect of the insured yacht which shall arise under the United States Longshoremen's and Harbor Workers' Compensation Act U.S. Code (1946) Title 33, Sections 901-49, and all laws amendatory thereof or supplementary thereto which may be or become effective while this Section of the Policy is in force.